

Assembly Bill No. 438

CHAPTER 113

An act to amend Sections 14536, 14552.2, 14556.1, and 14556.6 of, and to add and repeal Sections 14556.7, 14556.8, and 14556.9 of, the Government Code, and to amend Sections 7102 and 7104 of the Revenue and Taxation Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 2001. Filed with
Secretary of State July 30, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 438, Committee on Budget. Transportation: finance.

(1) Existing law continuously appropriates to the Treasurer the amounts identified in the Budget Act as having been deposited in the State Highway Account in the State Transportation Fund from federal transportation funds and pledged by the California Transportation Commission, for the purposes of issuing federal highway grant anticipation notes to fund transportation projects selected by the commission. Projects eligible for this special funding are limited to transportation projects that have been designated for accelerated construction by the commission.

This bill would provide that the category of projects eligible for the special funding includes (a) toll bridge seismic retrofit projects; (b) projects approved for funding under the Traffic Congestion Relief Act of 2000; and (c) projects programmed under the current adopted State Transportation Improvement Program or the current State Highway Operation and Protection Program.

(2) Existing law establishes the Traffic Congestion Relief Fund (hereafter the TCRF) in the State Treasury and appropriates the money in the TCRF (a) to the Department of Transportation for allocation, as directed by the California Transportation Commission, to the department and certain regional and local transportation entities for certain listed transportation projects, (b) to the Controller for allocation to cities, counties, and cities and counties for street and road maintenance, rehabilitation, and reconstruction, (c) to the commission for the purposes of a funding exchange program, and (d) to the department for rehabilitation and repaving projects on state highways. Existing law, with respect to the list of transportation projects eligible for funding with money from the TCRF referenced above, specifies the

lead applicant for each project, and establishes a procedure for the lead applicant to apply to the commission for funds for each project.

Existing law requires the Controller to transfer specified amounts on a quarterly basis from the General Fund to the Transportation Investment Fund (hereafter the TIF) in the State Treasury. The Controller, for each quarter during the period commencing on July 1, 2001, and ending on June 30, 2006, is required to transfer or apportion specified amounts from the TIF to the TCRF, to the Public Transportation Account, a trust fund in the State Transportation Fund, to the Department of Transportation, to the counties, including a city and county, and to the cities, including a city and county, for specified transportation purposes. Funds apportioned to counties, cities, and cities and counties are required to be deposited in certain local accounts in order to avoid the commingling of those funds with other local funds and may be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair, as defined. Cities, counties, and cities and counties are required to maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for allocation of the specified funds.

This bill would delay the transfers from the General Fund to the TIF by instead requiring the transfers to commence on July 1, 2003, and end on June 30, 2008.

This bill would reduce the total amount to be transferred from the TIF to the TCRF by \$76,100,000.

This bill, for the 2006–07 and 2007–08 fiscal years, would require the transfer from the TIF to the Department of Transportation for transportation capital improvement projects to be 80% of the amount remaining after the transfer to the TCRF for the listed transportation projects and, for that same period, would delete the transfer from the TIF to the cities, counties, and cities and counties. The bill, for each of the 2001–02 and 2002–03 fiscal years, would appropriate from the State Highway Account in the State Transportation Fund to the Controller 40% of the amount obtained by subtracting \$169,500,000 from the amount reported to the Controller for transfer to the TIF during each of those fiscal years. The bill would require the Controller to apportion the appropriated funds to cities, counties, and cities and counties in accordance with provisions in existing law relating to allocation of TIF funds, and those funds would be subject to provisions relating to expenditure of TIF funds.

This bill, until July 1, 2008, would authorize the Department of Transportation, for specified purposes, to transfer funds as short-term loans, as defined, among the State Highway Account in the State



Transportation Fund, the TIF, the Public Transportation Account in the State Transportation Fund, and the TCRF, subject to those terms and conditions that the Director of Finance may impose upon those transfers. The bill would require the Director of Transportation to report to the commission on the status of these loans, which would be required to monitor the impact of the loans on transportation projects and other expenditures.

This bill would authorize the Director of Finance to authorize, by executive order and to the extent necessary to provide adequate cash to fund projected expenditures for the listed transportation projects, the transfer of not more than \$100,000,000, as an interest free loan, from the Motor Vehicle Account in the State Transportation Fund to the TCRF, and the transfer of any available funds, as an interest free loan, from the General Fund to the TCRF. Loans from the Motor Vehicle Account would be authorized only beginning July 1, 2004, and would be required to be repaid by July 1, 2007. The bill would also provide for loans of certain maximum cumulative amounts to the TCRF from the Public Transportation Account or the State Highway Account for these purposes through the annual Budget Act, to be repaid by June 30, 2008, and June 30, 2007, respectively. The director would be required to order the repayment of the loans under certain circumstances. The bill would require the Department of Transportation, upon the request of the commission or the Director of Finance, to provide a report, for these purposes, projecting the cash needs of the listed projects.

This bill would authorize money in the TCRF derived from the General Fund and not currently needed for expenditures on the listed projects to be transferred to the General Fund through the annual Budget Act. The bill would require the Director of Finance, upon making a determination that funds in the TCRF are not adequate to support expected cash expenditures for the listed projects, to require, by executive order, that the funds transferred to the General Fund under this provision be repaid to the TCRF. These loans to the General Fund would be required to be repaid no later than June 30, 2006.

This bill would require that funds transferred to the TCRF under these provisions be used for purposes consistent with any restrictions on uses of those funds imposed under the California Constitution or by statute. The bill would require the Department of Transportation to identify specific projects to which those funds may properly be applied and to propose that application of funds to the commission. The bill would require the commission to designate projects to receive those funds through certain processes established in existing law. The bill would require the Department of Transportation to report periodically to the commission, the Department of Finance, and the Legislature on the



expenditure of those funds or related matters, and would require certain reporting by the commission to the Legislature.

(3) Existing law, amended by Proposition 116 of 1990, requires certain revenues derived from imposition of the Sales and Use Tax Law on certain motor vehicle fuels to be deposited in the Public Transportation Account in the State Transportation Fund, which is designated a trust fund by that initiative statute. Existing law requires that the funds in the account be available, when appropriated by the Legislature, only for transportation planning and mass transportation purposes, as specified by the Legislature, and requires that the funds be allocated for those purposes in accordance with a specified scheme. Existing law authorizes the Legislature to amend these provisions by statute requiring a $\frac{2}{3}$ vote, if the amendments are consistent with and further the purposes of these provisions.

This bill would amend the initiative provisions by limiting the transfer of certain sales and use tax revenues on certain motor vehicle fuels to the account for the 2001–02 fiscal year to not more than \$81,000,000 plus $\frac{1}{2}$ of the amount otherwise to be transferred under these provisions that is in excess of \$81,000,000. For the 2002–03 fiscal year, the transfer would be limited to not more than \$37,000,000 plus $\frac{1}{2}$ of the amount otherwise to be transferred under these provisions that is in excess of \$37,000,000.

(4) This bill would enact other related provisions.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 14536 of the Government Code is amended to read:

14536. (a) The annual report shall include an explanation and summary of major policies and decisions adopted by the commission during the previously completed state and federal fiscal year, with an explanation of any changes in policy associated with the performance of its duties and responsibilities over the past year.

(b) The annual report may also include a discussion of any significant upcoming transportation issues anticipated to be of concern to the public and the Legislature.

(c) The annual report submitted to the Legislature for the years 2001 to 2008, inclusive, shall include all of the following:

(1) A summary and discussion of loans and transfers authorized pursuant to Sections 14556.7 and 14556.8.



(2) A summary and discussion on the cash-flow and project delivery impact of those loans and transfers.

(3) A summary of any guidance provided to the department pursuant to Section 14556.7.

SEC. 2 Section 14552.2 of the Government Code is amended to read:

14552.2. "Eligible Project" means the federally funded portion of any highway or other transportation project that has been designated for accelerated construction by the commission, including, but not limited to, any of the following:

- (a) Toll bridge seismic retrofit projects.
- (b) Projects approved for funding under the Traffic Congestion Relief Act of 2000 (Ch. 4.5 (commencing with Section 14556)).
- (c) Projects programmed under the current adopted State Transportation Improvement Program or the current State Highway Operation and Protection Program.

SEC. 3 Section 14556.1 of the Government Code is amended to read:

14556.1. For purposes of this chapter, the following terms shall have the following meanings, unless expressly stated otherwise:

- (a) "Commission" is the California Transportation Commission.
- (b) "Department" is the Department of Transportation.
- (c) "Fund" or "TCRF" is the Traffic Congestion Relief Fund created under this chapter.
- (d) "Program" is the Traffic Congestion Relief Program established under this chapter.

SEC. 4 Section 14556.6 of the Government Code is amended to read:

14556.6. The purpose of this article is to relieve traffic congestion, provide additional funding for local street and road deferred maintenance, and provide additional transportation capacity in high growth areas of the state. The Traffic Congestion Relief Fund is intended to contribute five billion three hundred thirteen million nine hundred thousand dollars (\$5,313,900,000), above the traditional transportation funding provided by the state, towards the funding of projects listed in Article 5 (commencing with Section 14556.40) and the deferred maintenance program authorized in Section 2182 of the Streets and Highways Code. This funding commitment is intended to be combined with other state, local, federal, and private funds to complete and operate the transportation improvements identified in Article 5 (commencing with Section 14556.40). Funds needed to meet the contribution commitment described in this section are intended to be provided as follows:



(a) The sum of one billion five hundred million dollars (\$1,500,000,000) from the General Fund, as appropriated by Section 20 of Chapter 91 of the Statutes of 2000, to the fund.

(b) The sum of five hundred million dollars (\$500,000,000) from the transfer of the sales and use tax on motor vehicle fuel during the 2000–01 fiscal year, as required under Section 7102 of the Revenue and Taxation Code, as amended by Section 10 of Chapter 91 of the Statutes of 2000.

(c) The sum of six hundred seventy-eight million dollars (\$678,000,000) is intended to be provided in each of four successive fiscal years, commencing with the 2003–04 fiscal year, plus the sum of six hundred one million nine hundred thousand dollars (\$601,900,000) in the 2007–08 fiscal year, from the Transportation Investment Fund.

SEC. 5. Section 14556.7 is added to the Government Code, to read:

14556.7. (a) To provide adequate cash for projects, including, but not limited to, projects in the State Transportation Improvement Program, the State Highway Operation and Protection Program, and the Traffic Congestion Relief Program, and for the support of the department, the department may transfer funds as short-term loans among and between the State Highway Account in the State Transportation Fund, the Transportation Investment Fund in the State Treasury, the Public Transportation Account in the State Transportation Fund and the Traffic Congestion Relief Fund (TCRF), subject to those terms and conditions that the Director of Finance may impose upon those transfers. When loan balances authorized in this subdivision are outstanding, the Director of Transportation shall report the amounts of loans outstanding with respect to each fund or account as of the last business day of each quarter to the commission. The commission shall monitor the cash-flow loan program authorized in this section and shall provide guidance to the department to ensure that sufficient resources will be available for all projects and all other authorized expenditures from each fund or account so as to not delay any authorized expenditure.

(b) For the purposes of this section, a “short-term loan” is a transfer that is made subject to the following conditions:

(1) That any amount loaned is to be repaid in full to the fund or account from which it was loaned during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.

(2) That loans shall be repaid whenever the funds are needed to meet cash expenditure needs in the loaning fund or account.

(c) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes

operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 14556.8 is added to the Government Code, to read:

14556.8. (a) (1) To the extent necessary to provide adequate cash to fund projected expenditures under this chapter, the Director of Finance may authorize, by executive order, the transfer of not more than one hundred million dollars (\$100,000,000), as an interest free loan, from the Motor Vehicle Account in the State Transportation Fund to the TCRF, and the transfer of any available funds, as an interest free loan, from the General Fund to the TCRF. Loans from the Motor Vehicle Account may be made no sooner than July 1, 2004, and shall be repaid no later than July 1, 2007. The Director of Finance shall not authorize a loan from the Motor Vehicle Account, and shall promptly require the repayment of any outstanding balance owed to that account, if the funds are needed in the account to make expenditures authorized in the annual Budget Act and by any other appropriations made by the Legislature.

(2) To provide cash needed for expenditures on projects listed in Section 14556.40, the Legislature may authorize loans from the Public Transportation Account or the State Highway Account to the TCRF through the annual Budget Act. The Legislature may also authorize the State Highway Account to expend funds on behalf of projects listed in Section 14556.40 and those expenditures shall constitute a loan to the TCRF. Loans from the Public Transportation Account shall not exceed a cumulative total of two hundred eighty million dollars (\$280,000,000) and loans from the State Highway Account shall not exceed a cumulative total of one hundred eighty million dollars (\$180,000,000).

(b) The Director of Finance shall order the repayment of the loans authorized under this section under those terms and conditions that the director deems appropriate, upon determining that there are adequate funds available for that purpose in the TCRF and that repayment will not jeopardize the availability of money needed to fund approved and projected expenditures under this chapter. All loans from the Public Transportation Account shall be repaid by June 30, 2008, and all loans from the State Highway Account shall be repaid by June 30, 2007. Upon the request of the commission or the Director of Finance, the department shall provide a report, for purposes of this paragraph, projecting the cash needs of the projects approved under this chapter.

(c) (1) Money in the TCRF derived from the General Fund and not currently needed for expenditures on the projects listed in Section 14556.40 may be transferred to the General Fund through the annual Budget Act.

(2) Upon making a determination that funds in the TCRF are not adequate to support expected cash expenditures for the listed projects,



the Director of Finance, by executive order, shall require that funds transferred to the General Fund under paragraph (1) be repaid to the TCRF. All these loans shall be repaid no later than June 30, 2006.

(d) Funds transferred to the TCRF under this section shall be used for purposes consistent with any restrictions on uses of those funds imposed under the California Constitution or by statute. The department shall identify specific projects to which those funds may properly be applied and shall propose that application of funds to the commission. The commission shall designate projects to receive those funds through the processes described in Article 3 (commencing with Section 14556.10) and Article 4 (commencing with Section 14556.25). The department shall report periodically to the commission and the Department of Finance on the expenditure of those funds.

(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 14556.9 is added to the Government Code, to read:

14556.9. (a) The department shall submit quarterly and annual reports to the Joint Legislative Budget Committee, and to the fiscal and policy committees of the Legislature that consider transportation issues, on all loans and transfers authorized pursuant to Sections 14556.7 and 14556.8 for the most recent reporting period. The reports shall summarize amounts loaned and repaid during the reporting period and any outstanding balances at the end of the reporting period. The annual report required under this section shall be delivered to the Legislature by March 1 of each year and shall include information on and a discussion of the impact of all loans and transfers on project expenditures for each affected program. Additionally, the annual report shall include the amount of loans outstanding as of the end of the reporting period and any actual or projected impacts of those loan balances on funds projected to be used for projects in the latest State Transportation Improvement Program fund estimate required pursuant to subdivision (a) of Section 14525.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 7102 of the Revenue and Taxation Code, as added by Section 11 of Chapter 91 of the Statutes of 2000, is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant



to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

A) For the 2001–02 fiscal year, those transfers may not be more than eighty-one million dollars (\$81,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds eighty-one million dollars (\$81,000,000).

B) For the 2002–03 fiscal year, those transfers may not be more than thirty-seven million dollars (\$37,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds thirty-seven million dollars (\$37,000,000).

(2) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate, resulting from increasing, after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(4) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(5) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the

sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than $4\frac{3}{4}$ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(8) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be transferred to the Interim Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(9) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(10) An amount equal to all revenues, less refunds, derived under this part at a $4\frac{3}{4}$ percent rate for the period between January 1, 1994, and July 1, 1994, from the increase in sales and use tax revenue attributable to the increase in the rate of the federal motor vehicle fuel tax between January 1, 1993, and the rate in effect on January 1, 1994, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and an amount equal to that amount, but not exceeding seven million five hundred thousand dollars (\$7,500,000) shall be transferred from the Retail Sales Tax Fund to the Small Business Expansion Fund created by Article 5 (commencing with Section 14030) of Chapter 1 of Part 5 of Division 3 of Title I of the Corporations Code.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be estimated by the

State Board of Equalization, with the concurrence of the Department of Finance, and shall be made quarterly.

(d) Notwithstanding the designation of the Public Transportation Account as a trust fund pursuant to subdivision (a), the Controller may use the Public Transportation Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

(f) This section shall become operative on June 30, 2001.

SFC 9 Section 7104 of the Revenue and Taxation Code is amended to read:

7104. (a) The Transportation Investment Fund (hereafter the fund) is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2003–04 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter during the period commencing on July 1, 2003, and ending on June 30, 2008, the Controller shall make all of the following transfers and apportionments from the funds identified for transfer under paragraph (2) of subdivision (b) in the following order:

(1) To the Traffic Congestion Relief Fund created in the State Treasury by Section 14556.5 of the Government Code, the sum of one hundred sixty-nine million five hundred thousand dollars (\$169,500,000), except that the transfer for the final quarter shall be ninety-three million four hundred thousand dollars (\$93,400,000), for a total transfer of three billion three hundred thirteen million nine hundred thousand dollars (\$3,313,900,000).

(2) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the amount remaining after the transfer required under paragraph (1). Funds transferred under this paragraph shall be appropriated by the Legislature as follows:

(A) To the Department of Transportation, 50 percent for purposes of subdivision (a) or (b) of Section 99315 of the Public Utilities Code.

(B) To the Controller, 25 percent for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code.

(C) To the Controller, 25 percent for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code.

(3) To the Department of Transportation for expenditure for programming for transportation capital improvement projects subject to all of the provisions governing the State Transportation Improvement Program, 40 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, the transfer shall be 80 percent of the amount remaining after the transfer required under paragraph (1).

(4) To the Controller for apportionment to the counties, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred under this paragraph shall be allocated in accordance with the following formulas:

(A) Seventy-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(5) To the Controller for apportionment to cities, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred

under this paragraph shall be apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under paragraph (4) or (5) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under paragraph (4) or (5) of subdivision (c) shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) "Maintenance" means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) "Reconstruction" includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) "Storm damage repair" is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to paragraph (4) or (5) of subdivision (c).

(2) In order to receive any allocation pursuant to paragraph (4) or (5) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less



than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, may not be considered when calculating a city's or county's annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, that the city was incorporated.

(4) For purposes of paragraph (2), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under paragraph (4) or (5) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in paragraph (4) or (5) of subdivision (c).

g. The Los Angeles County Metropolitan Transportation Authority shall give first priority for using its share of the funds made available under subparagraphs (B) and (C) of paragraph (2) of subdivision (c) to providing the levels of bus service mandated under the consent decree entered into by the authority on October 29, 1996, in the case of Labor/Community Strategy Center, et al. v. Los Angeles County Metropolitan Transportation Authority.

h. For the purpose of allocating funds under paragraph (4) or (5) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

i. This section shall become inoperative on the date that all encumbrances incurred for the projects funded under paragraph (3) of subdivision (c) have been liquidated or on June 30, 2008, whichever date is later, and as of the January 1 immediately following that date is repealed.

SEC. 10. (a) For each of the 2001–02 and 2002–03 fiscal years, there is hereby appropriated from the State Highway Account in the State Transportation Fund to the Controller 40 percent of the amount obtained by subtracting one hundred sixty-nine million five hundred thousand dollars (\$169,500,000) from the amount reported to the Controller under paragraph (2) of subdivision (b) of Section 7104 of the Revenue and Taxation Code during each of those fiscal years.

(b) The Controller shall apportion the funds appropriated under this section to cities, counties, and cities and counties in accordance with paragraphs (4) and (5) of subdivision (c) of Section 7104 of the Revenue and Taxation Code.

(c) Funds received by a city, county, or city and county under this section are subject to the requirements imposed under subdivisions (d), (e), (f), and (h) of Section 7104 of the Revenue and Taxation Code.

SEC. 11. If this act is enacted and becomes operative prior to June 30, 2001, Section 8 shall not become operative until June 30, 2001.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide, at the earliest possible time, for the preservation of funds in the General Fund for the purpose of balancing the state budget for the 2000–01 fiscal year, and to make related statutory revisions in

order to refinance the Traffic Congestion Relief Act of 2000, it is necessary that this act take effect immediately.

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